only while such burials remained. After disinterment and removal of the body or remains, the religious character of the ground ceased (desinit locus religiosus case, Dig. XI, tit. 7, § 44)."

Elections—Rights of Minority Candidate Where Majority Candidate Ineligible.—In Woll *v.* Jensen, 36 N. Dak. 250, 162 N. W. 403, Ann. Cas. 1918B, 982, it was held that a minority candidate for office has no right thereto because of the fact the candidate receiving the majority vote was ineligible to hold the office.

The court said in part: "The controlling question of the right of the plaintiff to the office remains and must be met. Specifically stated it is, whether one who has received less than the majority of the votes which are cast at an election is elected to such office so that he can claim the same when the voters knowing of the disqualification of his opponent chose to elect the latter by a majority of the votes cast. * * * The question before us has been the subject of no little discussion. It seems to be generally conceded that, where the voters do not know of the disqualification, the votes cast for the disqualified candidate cannot be credited to the defeated party, and that the whole election will be deemed a nullity. The only doubt in the minds of the writers has been whether this is true when the disqualification is known. The English rule and the rule of Indiana seems to be that where the disqualification is known the party receiving the minority vote will be entitled to the office, and this on the theory that the voters have willfully thrown away their votes, and that the office should not go begging on that account. The weight of American authority, both legislative and judicial, seems to be that no such intention to throw away the vote can be imputed, but that rather the vote for the disqualified candidate must be considered as a protest against the qualified person, and especially should this be the case where there are only two candidates. The authorities lay stress, indeed, upon the proposition that government by the majority seems to be an American maxim, and that no one should be deemed elected against the protest of that majority. It is true that many of the authorities are purely legislative. It is also true that perhaps in no adjudicated case has the question been fairly presented. The dicta of the courts, however, and the positive rulings of the legislative tribunals, are almost unanimous on the proposition that, where there is no statute declaring votes cast for ineligible candidates to be absolutely void, no right to the office can be presumed in the defeated candidate. We hold, therefore, that the plaintiff was not elected to the office."

Espionage Act—Inciting Insubordination, etc., in Military or Naval Forces.—United States *v.* Krafft (Cir. Ct. of Appeals, Third Circuit), 249 Fed. 919, was a prosecution under the provision of Act

June 15, 1917, c. 30, tit. 1, § 3, 40 Stat. 219, that "whoever, when the United States is at war, shall willfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty in the military or naval forces of the United States" shall be guilty of a crime. The defendant was a man of mature years, well educated, accustomed to public speaking, and his purpose was to persuade people to the beliefs he espoused. He was a man of much public prominence, had been a candidate for Governor of New Jersey, a man whose vocation as an editor turned his attention to public affairs, and whose purpose and paid or volunteered occupation was to educate and persuade his hearers to his beliefs. The evidence showed that in speaking from an elevated platform, in a central place in a populous city, to a large crowd, containing from 30 to 50 men in uniform, who were plainly distinguishable, he used the following language:

"I do not see why the government can compel troops to cross the ocean. It is not in the Constitution. It is a damned shame. Why the hell should we do it? Why have not the Socialists of America the same right as they have in Germany, to vote for or against the war? They send their own Senators to vote for conscription. Why don't the people have a chance?"

It was held that it was sufficient that the defendant did the acts charged, and that they were done willfully and with intent to cause insubordination, disloyalty, mutiny, or refusal of duty in the military or naval forces, and it was not necessary that they produced the effect intended.

The court said: "The United States was at war; the conscription act had been passed, which subjected the men selected to the orders of the military authorities of the country. Under such circumstances, a jury could reasonably infer that a man who undertakes to lead his hearers to adopt his spoken views must, in reason, be held to have intended his words should have, if followed, the effect in action which his counsel in words advised."

It was further held that evidence of opinions expressed by defendant at some previous time and place was properly excluded.

The court very appropriately quoted from the instructions given to applicants for naturalization in court at Philadelphia, April 6, 1917, as follows:

"War is the dividing line. What was only foolish and unwise in word and deed last week, in peace, may be treason when war comes. Remember, when war comes, no man can serve two masters. As of old the message comes: 'Choose ye this day whom ye will serve.'"

Husband and Wife—Separation Agreement—Effect of Adultery.—In Devine *v.* Devine (N. J. Eq.), 104 Atl. 370, 371, it was held that